

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

BALL AEROSOL AND SPECIALTY  
CONTAINER INC.

Plaintiff,

v.

LIMITED BRANDS, INC.,  
and  
BATH & BODY WORKS, INC.,  
and  
HENRI BENDEL, INC.,  
and  
BATH & BODY WORKS, INC.  
D/B/A THE WHITE BARN CANDLE CO.,

Defendants.

Case No. 1:05-CV-03684  
Honorable Samuel Der-Yeghiayan  
JURY TRIAL DEMANDED

**DEFENDANTS' MOTION FOR SUMMARY  
JUDGMENT OF NONINFRINGEMENT OR IN  
THE ALTERNATIVE FOR LIMITING DAMAGES**

Defendants Bath & Body Works, Inc., Bath & Body Works, Inc., d/b/a The White Barn Candle Co., Limited Brands, Inc., and Henri Bendel, Inc. (collectively referred to as the "Limited Defendants") respectfully move this Court pursuant to Federal Rule of Civil Procedure 56 for summary judgment that the Limited Defendants' Henri Bendel Home Travel Candle does not infringe Claims 1 and 5 of Kholsa United States Patent No. 6,457,969, or alternatively that Plaintiff, Ball Aerosol and Specialty Container Inc., is limited to damages for only those accused products found to have actually been used in an infringing manner. The grounds for granting this motion for summary judgment are detailed in the concurrently filed Memorandum in

Support, as well as the Limited Defendants' Local Rule 56.1 Statement of Undisputed Material Facts.

Respectfully submitted,

Dated: May 1, 2006

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following at their e-mail address on file with Court:

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